

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Joseph G. DuMouchelle and
Melinda J. Adducci

Debtors.

Chapter 7

Case No. 19-54531-lsg

Honorable Lisa S. Gretchko

Thomas T. Ritter

Plaintiff,

v.

Joseph G. DuMouchelle and
Melinda J. Adducci

Defendants.

Adversary Pro. No. 20-04381

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS
ADVERSARY COMPLAINT AND PROCEEDING AND FOR SANCTIONS**

This matter came before the Court upon the Defendants' Motion to Dismiss Adversary Complaint and Proceeding and for Sanctions ("Motion"; ECF No. 55), the Plaintiff's response to the Motion ("Response"; ECF No. 61) and the Defendants' reply ("Reply"; ECF No. 75). Plaintiff and Defendants previously filed a stipulation ("Sanctions Withdrawal Stipulation"; ECF No. 60) consenting to the withdrawal of Defendants' request for sanctions as set forth in the Motion. On

February 10, 2023, the Court held a hearing (“Hearing”) on the Motion, the Response and the Reply; counsel for Plaintiff and counsel for Defendants appeared at the Hearing. The Court has reviewed the Motion, the Response, the Reply, the Sanctions Withdrawal Stipulation and other pertinent pleadings, has considered statements made at the Hearing, and is advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED that for the reasons stated on the record at the Hearing, the Motion is denied except as set forth in the next paragraph of this Order.

IT IS FURTHER ORDERED that Plaintiff is granted a period of 14 days from the date of entry of this Order to file a further amendment to Count I of Plaintiff’s First Amended Complaint to state which writing(s) the Plaintiff relied upon with respect to the promissory note(s) for purposes of the 11 U.S.C. §523(a)(2)(B) allegations in Count I of Plaintiff’s First Amended Complaint. If the Plaintiff fails to file a timely amendment of Count I consistent with the preceding sentence in this Order, then the 11 U.S.C. §523(a)(2)(B) allegations in Count I of Plaintiff’s First Amended Complaint shall be deemed dismissed; however the balance of Count I shall remain and proceed.

Signed on February 28, 2023



/s/ Lisa S. Gretchko

Lisa S. Gretchko
United States Bankruptcy Judge